

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:	§ § § §	CASE NO. 23-30835
PHASE ONE SERVICES LLC		
Debtor	§ § § §	CHAPTER 11

**EMERGENCY MOTION FOR AUTHORITY TO (I) CONTINUE PREPETITION
FACTORING AGREEMENT ON A POSTPETITION BASIS AND (II) MODIFYING THE
AUTOMATIC STAY**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

EMERGENCY RELIEF HAS BEEN REQUESTED. IF THE COURT CONSIDERS THE MOTION ON AN EMERGENCY BASIS, THEN YOU WILL HAVE LESS THAN 21 DAYS TO ANSWER. IF YOU OBJECT TO THE REQUESTED RELIEF OR IF YOU BELIEVE THAT THE EMERGENCY CONSIDERATION IS NOT WARRANTED, YOU SHOULD FILE AN IMMEDIATE RESPONSE.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Phase One Services LLC (“Debtor”), by and through their undersigned attorneys, hereby file this Motion for Authority to (I) Continue Prepetition Factoring Agreement on a Post-petition basis and (II) Modifying the Automatic Stay (the “Motion”) and in support hereof, respectfully states as follows:

I. JURISDICTION AND VENUE

1. The Court has jurisdiction of the case and this Motion under 28 U.S.C. § 1334. This Motion constitutes a core proceeding under 28 U.S.C. § 157(b)(2). Venue is proper under 28 U.S.C. §§ 1408 & 1409.
2. The Debtor remains in possession of the Estate as a debtor-in-possession under 11 U.S.C. §§ 1107 & 1108. No Subchapter V Trustee has been appointed in this case.

II. FACTUAL BACKGROUND

3. On March 8, 2023, the Debtor filed its voluntary petition for relief pursuant to Chapter 11 of the Bankruptcy Code.
4. The Debtor is a company that is operating its business and managing its financial affairs as Debtor-in-Possession.
5. The Debtor is operating from its facility in Humble, Texas. The Debtor operates a national shipping and trucking transportation business.
6. The Debtor and TBS Factoring Service (the “Factor”) are parties to the original Factoring and Security Agreement dated November 13, 2018 and the addendum dated March 6, 2023 (the “Agreement”), a copy of which is attached as “Exhibit A.”
7. The Agreement provides for advances by the Factor to the Debtor, so long as such advances do not cause the ratio of the Debtor’s obligations to the Factor to the value (as determined in the Agreement) of the Debtor’s eligible (as determined in the Agreement) accounts to exceed that set forth in the Agreement (the “Formula”).
9. The Debtor has offered to assign its accounts to Factor under the Agreement and Factor has agreed to consider factoring accounts from the Debtor pursuant thereto.

10. The Debtor, notwithstanding its efforts to do so, is unable to obtain unsecured credit allowable under 11 U.S.C. Section 503(b)(1) as an administrative expense, or other than pursuant to 11 U.S.C. Section 364(c)(2) and (3), and the Debtor is unable to obtain credit on terms equal to or more favorable than those proposed by Factor.

11. Factor has agreed to consider providing working capital to the Debtor in accordance with the Agreement in good faith, within the meaning of 11 U.S.C. Section 364(e), and all interested parties were either notified of the Motion, as evidenced by the affidavit of service, or were present at this Court's hearing on the Motion.

12. Good cause exists for approval of the Debtor's agreement to the factoring by TBS Factoring Service under the terms of the Agreement, the entry of this Order will minimize disruption of the Debtor as a "going concern," and is in the best interest of the Debtor, its creditors, and its estate. The terms upon which the Debtor is authorized to utilize cash advances are determined as fair under the circumstances.

13. The Debtor has provided written notice of the filing of the Motion to the Factor, the United States Trustee, all of the Debtor's secured creditors, and all parties who filed requests for notice as evidenced by the affidavit of service filed by the Debtor's counsel with this Court, which notice this Court finds to be appropriate and adequate under Federal Rules of Bankruptcy Procedure 2002 and 4001, and as required by Section 364 of the Bankruptcy Code.

14. The Debtor admits, without prejudice to the rights of third parties to challenge same to the extent set forth below, that as of the Petition Date, in accordance with the Agreement, the Debtor was indebted to the Factor, without defense, counterclaim, recoupment or setoff, in the aggregate amount of at least the Pre-Petition Obligation secured by a valid, enforceable and properly perfected first priority lien in the collateral described therein.

15. The Agreement with Factor provides a vital source of working capital for the Debtor, is in the best interests of the Debtor and its estate and is necessary to avoid immediate and irreparable harm.

WHEREFORE, the Debtor respectfully requests entry of an order (a) granting the relief requested in the Motion; (b) approving the extension of Factoring Agreement on a post-petition basis and authorizing the Debtor to operate thereunder, and (c) granting such other and further relief as is just and proper.

Respectfully submitted,

THE LANE LAW FIRM, PLLC

/s/Robert C. Lane
Robert C. Lane
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PROPOSED COUNSEL FOR
DEBTOR

CERTIFICATE OF CONFERENCE

I, Attorney Robert “Chip” Lane certify that on March 7, 2023, the Debtor representative had communication with her account manager with TBS Factoring Service and they are aware of the motion and would like to continue factoring with Debtor post-petition.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Debtor’s Emergency Motion for Authority to (I) Continue Prepetition Factoring Agreement on a Post-petition basis and (II) Modifying the Automatic Stay was served upon the US Trustee and to the parties listed on the service list below and the attached mailing matrix either via electronic notice by the court’s ECF noticing system or by United States first class mail, postage prepaid, and by electronic mail as listed below on March 8, 2023:

Debtor:

Phase One Services LLC
10604 ½ Wallisville Road
Houston, Texas 77044

US Trustee:

Office of The United States Trustee
515 Rusk Street, Suite 3516
Houston, TX 77002

Notice will be electronically mailed to:

US Trustee
USTPRegion07.HU.ECF@USDOJ.GOV

Alicia Lenae Barcomb on behalf of U.S. Trustee US Trustee
alicia.barcomb@usdoj.gov

/s/ Robert “Chip” Lane
Robert “Chip” Lane

Label Matrix for local noticing

0541-4

Case 23-30835

Southern District of Texas

Houston

Wed Mar 8 07:46:43 CST 2023

Ashley Williams
 12910 Breezy Meadow Ln.
 Houston, TX 77044-1165

Phase One Services LLC
 10604 1/2 Wallisville Rd
 Houston, TX 77013-4123

4
 United States Bankruptcy Court
 PO Box 61010
 Houston, TX 77208-1010

Aztec Portacans & Containers, LTD
 2001 W 34th Street
 Houston, TX 77018

Cashable LLC
 2 Executive Blvd 305
 Suffern, NY 10901-8219

City of Houston
 PO Box 1560
 Houston, TX 77251-1560

Cloud Fund, LLC
 400 Rella Blvd Suite 165-101
 Suffern, NY 10901-4241

Cosco Shipping Lines
 15600 JFK Blvd 400
 Houston, TX 77032-2344

DCLI Chassis
 PO Box 603061
 Charlotte, NC 28260-3061

Dakota Financial
 11755 Wilshire Blvd Suite 1670
 Los Angeles, CA 90025-1526

Department of Public Safety & Corrections
 PO Box 61047
 New Orleans, LA 70161-1047

Evergreen Shipping Agency
 16000 North Dallas Parkway 400
 Dallas, TX 75248-6609

Falcon Fleet Maintenance
 PO Box 7228
 Houston, TX 77248-7228

Financial Pacific Leasing
 3455 S. 344th Way Ste 300
 Federal Way, WA 98001-9546

HAPAG-LLOYD (AMERICA) LLC
 Regional Headquarters
 399 Hoes Lane
 Piscataway, NJ 08854-4115

HMM Co., LTD
 222 West Las Colinas Blvd 700
 Irving, TX 75039-5468

Harris County Toll Road Authority
 PO Box 4440
 Houston, TX 77210-4440

Houston Industrial Yard, Inc./Triton Realty
 3657 Briarpark Drive 300
 Houston, TX 77042-5266

IPFS Corporation
 P.O. Box 412086
 Kansas City, MO 64141-2086

Internal Revenue Service
 P.O. Box 7346
 Philadelphia, PA 19101-7346

Law Offices of Isaac H. Greenfield PLLC
 2 Executive Blvd 305
 Suffern, NY 10901-8219

M&M Tire and Mechanic Shop
 11649 Wallisville Road
 Houston, TX 77013-3418

Mediterranean Shipping Company Inc.
 4700 W Sam Houston Pkwy N 250
 Houston, TX 77041-8225

Motive Credit Card
 3500 South Dupont Highway
 Dover, DE 19901-6041

Navitas Credit
 203 Fort Wade Road 300
 Ponte Vedra, FL 32081-5159

OTR Leasing
 9100 Liberty Drive
 Liberty, MO 64068-7500

Padfield & Stout
 420 Throckmorton Street Suite 1210
 Fort Worth, TX 76102-3792

Plexe LLC
 6295 Greenwood Plaza Blvd 100
 Englewood, CO 80111-4978

Sealand Maersk Company
 9300 Arrowpoint Blvd
 Charlotte, NC 28273-8136

Stream PO Box 650261 Dallas, TX 75265-0261	TBS Factoring Service PO Box 18109 Oklahoma City, OK 73154-0109	TRAC Intermodel 750 College Road East Princeton, NJ 08540-6646
TXTAG PO Box 650749 Dallas, TX 75265-0749	The Feldman Law Firm, P.C. 3000 Marcus Avenue 2W15 New Hyde Park, NY 11042-1005	The LCF Group 3000 Marcus Avenue 15 New Hyde Park, NY 11042-1005
The Lane Law Firm 6200 Savoy Dr Ste 1150 Houston, TX 77036-3369	Transfer Shipping 25 W I-65 Service Road Mobile, AL 36608-1201	US Trustee Office of the US Trustee 515 Rusk Ave Ste 3516 Houston, TX 77002-2604
Waste Management 1001 Fannin Suite 4000 Houston, TX 77002-6711	Willscot 4646 E Van Buren Street Phoenix, AZ 85008-6915	Ying Yang 3250 Briarpark Dr Suite 201 Houston, TX 77042-4263
ZiM American Integrated Shipping Lines 5801 Lake Wright Drive Norfolk, VA 23502-1863	Robert Chamless Lane The Lane Law Firm 6200 Savoy Drive Ste 1150 Houston, TX 77036-3369	

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(d)Phase One Services LLC 10604 1/2 Wallisville Rd Houston, TX 77013-4123	(u)Williams Scotsman, Inc. 10604 1/2 Wallisville Road 77103	End of Label Matrix Mailable recipients 46 Bypassed recipients 2 Total 48
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